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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/812,744	03/30/2004	Haruhiko Urokohara	045616/276287	5494
826	7590	08/16/2004	EXAMINER	
ALSTON & BIRD LLP BANK OF AMERICA PLAZA 101 SOUTH TRYON STREET, SUITE 4000 CHARLOTTE, NC 28280-4000				KIM, PAUL L
ART UNIT		PAPER NUMBER		
				2857

DATE MAILED: 08/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

NY

Office Action Summary	Application No.	Applicant(s)	
	10/812,744	UROKOHARA, HARUHIKO	
	Examiner	Art Unit	
	Paul L Kim	2857	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 30 March 2004.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-20 is/are rejected.
- 7) Claim(s) 18 is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ . |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ . |

DETAILED ACTION

Specification

1. The abstract of the disclosure is objected to because the words “comma” and “period” should be replaced with the actual punctuation marks. Correction is required.
See MPEP § 608.01(b).

Claim Objections

2. Claim 18 is objected to because of the following informalities: In line 16, the term “difining” is misspelled and should be – defining --. Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The last paragraph of claims 1, 9, 10, and 18-20 do not make sense. *Elapsed* time cannot be measured *until* an operation reaches a target. Elapsed time can only be measured for a past event. Elapsed time cannot be measured in the future.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-5, 7, 9-14, 16, and 18-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Freer.

With regard to claims 1, 9, 10, and 18-20, Freer teaches a device and method for evaluating an object device by a computer program comprising: means for defining an initial status of the object (fig. 22), means for defining a target status (fig. 23), identifying an examinee's operation upon the object device (fig. 7, part 43), identifying an operation status of the object device by the examinee's operation, judging whether the operation is coincident with the target status, and measuring elapsed time (col. 15, lines 1-22).

With regard to claims 2 and 11, Freer teaches judging whether the operation is coincident with each transition statuses (col. 15, lines 20-22) and measuring elapsed time till each transition status is reached (col. 16, lines 59-63).

With regard to claims 3 and 12, Freer teaches detecting the operation upon the object device and notifying when the detected operation takes place (fig. 1, part 36).

With regard to claims 4, 5, 13, and 14, Freer teaches a means for receiving a signal and recording a time corresponding to the operation of the object device and identifying the operating status by referring to a signal definition in which a change in status corresponds to the signal (col. 15, lines 20-22).

With regard to claims 7 and 16, Freer teaches judging that the operation is coincident with the target status when the operation is in the target status during a predetermined time period (col. 15, lines 9-11).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

7. Claims 6 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Freer.

Freer teaches an evaluation device that identifies operation status of a signal but does not specify identifying and evaluating a signal recorded during an operation in a recording log. Sakata et al teaches a method of evaluating a user operating an object device that uses a signal recorder to identify attributes of a recorded signal during operation (constitution). Since Freer and Sakata et al are both within the art of evaluating an object device operated by a user, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to modify Freer, so that system evaluates recorded signals, as taught by Sakata et al, so as to derive the benefit of improved system capabilities by being able to analyze only certain parts of the signal that benefit from being studied.

Allowable Subject Matter

8. Claims 8 and 17 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Harel teaches a computerized apparatus for identifying human behavior in operating a computer. Driskell teaches a method for evaluating a user operating computer software. Ghahramani teaches the usability of a system or product.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul Kim whose telephone number is 571-272-2217.

The examiner can normally be reached on Monday-Thursday 10:00-6:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marc Hoff can be reached on 571-272-2216. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9306 for regular communications and for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0956.

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Art Unit: 2857

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August 8, 2004



MARC S. HOFF
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800